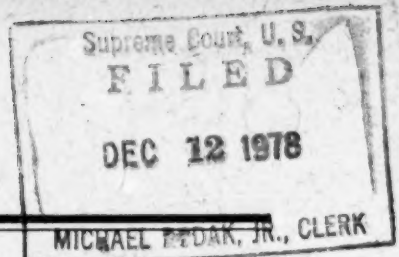


No. 78-902



In the Supreme Court of the United States

OCTOBER TERM, 1978

**SHOPMEN'S LOCAL UNION No. 455, INTERNATIONAL
ASSOCIATION OF BRIDGE, STRUCTURAL, AND
ORNAMENTAL IRON WORKERS, AFL-CIO, PETITIONER**

v.

NATIONAL LABOR RELATIONS BOARD, ET AL.

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT**

**MEMORANDUM FOR THE
NATIONAL LABOR RELATIONS BOARD
IN OPPOSITION**

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

JOHN S. IRVING
General Counsel
National Labor Relations Board
Washington, D.C. 20570

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The petition for a writ of certiorari was not timely filed. The judgment of the court of appeals was entered on September 6, 1978 (Pet. App. 7a). The petition for a writ of certiorari was due to be filed within 90 days after the entry of judgment, *i.e.*, by December 5, 1978 (a Tuesday), 28 U.S.C. 2101(c). The petition was not filed until December 6, 1978. The time limit specified by 28 U.S.C. 2101(c) is jurisdictional. *Toledo Scale Co. v. Computing Scale Co.*, 261 U.S. 399, 417-418 (1923).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.
Solicitor General

JOHN S. IRVING
General Counsel
National Labor Relations Board

DECEMBER 1978